REMARKS

Status of the Claims

Claims 40-58 are pending in the present application, Claims 1-39 having been canceled in a previous amendment in response to a restriction requirement. Claims 40-42, 44, 52-55, 57, and 58 have been amended to more clearly define the invention.

Telephone Interview with the Examiner

On March 28, 2006, applicant's attorney (Michael C. King, Registration No. 44,832) conducted a telephone interview with Examiner Gregory Vaughn. In particular, the interview focused on what applicant's attorney believed to be elements distinguishing applicant's claims from the primary reference cited by the Examiner (McNally), as well as the rejections under 35 U.S.C. § 112. While no specific agreement was reached, the Examiner did appear to agree that the current rejection had not recognized that the claim recitation was intended to encompass the concept of using a menu template, a menu template modifier, and a database record to *re-create a previously generated menu*, where the previously generated menu had been stored as a database record (for example, in order to consume less memory resources). To re-create the previously generated menu, the menu template modifier would use the menu template, which defined a format of the menu, and data from the database record corresponding to the previously generated menu.

The Examiner did emphasize that amendments to the claims would be helpful in emphasizing the above-identified aspect of the present invention, and that the Examiner would need to review the cited art, particularly the McNally reference, before concluding that the above identified aspect of the present invention distinguishes over the disclosure provided by the prior art.

Applicant's attorney would like to thank the Examiner for his willingness to discuss the application and the cited art.

Request for Continued Examination

As discussed in detail below, applicant believes that the finality of the present Office Action should be withdrawn, because the record does not indicate that the elements previously presented in Claim 57 (and not present in Claim 40) have been examined. However, to ensure the present application does not become abandoned if the present after final amendment is not entered, applicant has also submitted a Request for Continued Examination. Should the finality of the current office

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1   action be rescinded, applicant respectfully requests the fee for the Request for Continued

2   Examination be refunded to the deposit account identified in the accompanying transmittal letter.

3   <u>Finality of the Present Office Action</u>

4   While applicant does recognize that after final amendments are not entered as a matter of

5   right, applicant respectfully requests that the Examiner consider the amendments and remarks

6   contained herein, as applicant reasonably believes such amendments will place this application in

7   condition for allowance. Significantly, applicant has not introduced any additional elements which

8   would require a further search. Essentially, applicant has simply amended the claims to clarify the

9   distinguishing characteristics between applicant's claims and the cited art. Applicant is not presenting

10   any argument that has not already been presented in a prior response. Rather, based on the interview

11   noted above, applicant is presenting claims which have been amended to emphasize differences to

12   which the applicant has already attempted to draw the Examiner's attention.

13   Significantly, the claims as amended do not present new issues requiring further

14   consideration. Claim 57, which was originally presented in applicant's Amendment and Request for

15   Reconsideration dated October 18, 2005, introduced the aspect of applicant's invention discussed in

16   the telephone interview noted-above, which applicant believes patentably distinguishes over the prior

17   art. In the present Office Action, the Examiner rejected Claim 57 based on 35 U.S.C. § 112. The

18   Examiner further rejected Claim 57 under 35 U.S.C. § 102(e), stating specifically that Claim 57 was

19   directed toward the method of Claim 40, and was being rejected using the same rationale.

20   Unfortunately, it appears that the Examiner did not appreciate that Claim 57 was not simply

21   equivalent to Claim 40, but rather introduced elements which were not present in Claim 40 (i.e., the

22   aspect of the invention discussed in the telephone interview). Applicant believes that had the

23   Examiner recognized that aspect of the invention, the Examiner may very well have objected to

24   Claim 57, as those additional elements defining that aspect of the invention appear to distinguish over

25   the cited art.

26   The additional elements introduced into Claim 57 include:

27   *(b)*   *enabling a user to select a ~~unique~~ database record corresponding to a*

28   *previously generated menu from the menu database;*

29   *(c)*   *using said menu template modifier, said menu template, and the ~~unique~~*

30   *database record corresponding to the previously generated menu to re-create the previously*

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1   *generated menu, the ~~unique~~ database record defining an appearance and a functionality of the menu*

2   *items included within the previously generated menu;*

3   *(d)   displaying the re-created previously generated menu to a user...*

4   The steps of Claim 57 are indeed similar to the steps of Claim 40; however the steps are not

5   identical. Indeed, the differences between the steps of Claims 40 and 57 are so significant that the

6   rationale used to reject Claim 40 should not have been applied to reject Claim 57. Essentially,

7   Claim 40 generally recites generating a menu using a menu template, a menu template modifier, and

8   database records. The Examiner cited McNally as disclosing generating a plurality of different

9   menus (such as a breakfast menu, a lunch menu, and a dinner menu), using a menu template, menu

10   template modifiers (modifiers such as rare, medium, and well done) and database records (records

11   corresponding to menu items such as steak, vegetables, etc.). Significantly, Claim 57 includes the

12   step of *enabling a user to select a ~~unique~~ database record corresponding to a previously generated*

13   *menu from the menu database,* whereas Claim 40 simply recites *enabling a user to select a desired*

14   *menu from the menu database.* Claim 57 (and the remarks that accompanied the introduction of

15   Claim 57) was specifically crafted to draw the Examiner's attention to the fact that in applicant's

16   invention the recited database records *correspond to previously generated menus.* This is critical to

17   applicant's invention, one aspect of which is to reduce the memory resources required to store a

18   plurality of menus, by storing the menus as database records which can be used to re-create a

19   previously generated menu, when used in conjunction with a menu template. While saving memory

20   resources is not positively recited in each independent claim, it should be recognized that saving

21   memory resources is significant in that it explains why applicant saves previously developed menus

22   as database records, as opposed to simply saving a menu in a more conventional data structure (i.e., a

23   data structure that does not require additional processing *and* a menu template to enable the

24   previously generated menu to be displayed to a user). Applicant's menu template includes formatting

25   information which does not need to be included in the database record, thereby enabling a database

26   record corresponding to a specific menu to be stored using less memory resources than would be

27   required to store the complete menu. When a large number of menus need to be stored, the memory

28   savings can be significant, as described in applicant's specification.

29   Because the record does not establish that the additional elements introduced into Claim 57

30   have been considered by the Examiner, it does not appear that applicant has received the examination

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of Claim 57 to which he is entitled, and as such, the finality of the present office action appears premature. The current amendments are entirely consistent with the additional elements originally introduced into Claim 57 (with additional amendments being directed to correcting the deficiencies in the language noted by the Examiner in the rejections based under 35 U.S.C. § 112). Because applicant is essentially simply seeking examination of the elements previously presented in Claim 57, and because review of such elements would not appear to require significant additional consideration by the Examiner, it would appear proper to enter the present amendment without requiring applicant to file a Request for Continued Examination.

Claims Rejected under 35 U.S.C. § 112

The Examiner has rejected Claims 57 and 58 under 35 U.S.C. § 112 first paragraph, as failing to comply with the written description requirement. The Examiner asserts that claims contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant arts that the inventor, at the time the application was filed, at possession of the claimed invention.

With respect to Claim 57, the Examiner has objected to multiple recitations in the claim. The Examiner has asserted that the recitation of *"each menu being configured to be displayed to a user in its entirety at the same time"* in the preamble is not supported by the written specification. As discussed in the above-noted telephone interview, it was applicant's intention to include the element that all menu items encompassed in a single menu would be displayed to a user at a single time, in contrast to some prior art menus that include more menu items than can be displayed at a single time, requiring the user to scroll through successive screens to see all menu items included in a single menu. Applicant has amended Claim 57 to address this rejection, which should now be withdrawn.

The Examiner has also asserted that the recitation *"each database record comprising sufficient data to enable said menu template modifier to generate a unique menu based on said menu template and the data in each database record"* (first limitation) is not supported by the written specification. Based on the above-noted telephone interview, it appears that the Examiner was particularly troubled by the terms sufficient and unique. Such terms have been removed from the claims. With respect to the balance of the concepts recited in the above identified phrase, it must be recognized that there are extensive references in the specification as filed with respect to the relationship between the database records, the menu template modifier, and the menu templates. For

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example, FIGURES 2B and 3 (and the corresponding text, found on page 13 of the application as filed) describe in detail the relationship between the menu template, the database record, and the menu template modifier (as does the description on page 5, lines 20-30). Accordingly, this rejection should be withdrawn.

It should be noted that the language to which the Examiner refers to as the first limitation has been canceled, and been replaced with the following language:

providing a plurality of database records, a menu template, and a menu template modifier, such that each database record:

> *(i) corresponds to a previously developed menu that includes a plurality of menu items; and*

> *(ii) can be used to re-create the corresponding previously developed menu for display to a user, by using the menu template modifier to modify the menu template in accord with the contents of the database record, the menu template defining the format of the previously developed menu;*

The above-noted language was developed in response to the above-identified telephone interview, to more clearly articulate the aspect of the invention which appears to distinguish over the McNally reference. The concepts articulated in the above-noted language are entirely consistent with the specification as filed, particularly the sections discuss above with respect to the first limitation.

The Examiner has asserted that the recitations of "*enabling a user to select a unique database record*" (second limitation) and "*the unique database record corresponding to the previously generated menu*" (third limitation) are not supported by the written specification. Again, it appears that the Examiner was objecting to the term unique, which has been eliminated in the present amendment. Block 40 of FIGURE 3, and the corresponding taxed at page 14 of the specification as filed, clearly describes enabling the user to select a database record corresponding to a previously generated menu. Accordingly, these rejections should be withdrawn.

With respect to Claim 58, it is not apparent which of the following terms the Examiner believes is not disclosed in the specification as filed "*when executed by a processor, further cause the actuation of a specific key to execute an action*". This concept is encompassed by FIGURE 13 and the corresponding text in the specification as filed. In a block 142 a menu item is selected once is user actuates a specific key . In a particularly preferred embodiment, the menu is arranged to emulate

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1 a numeric keypad, and selection of a specific menu item is achieved when a user actuates the

2 corresponding key on the numeric keypad. In response to the selection of the menu item, the

3 processor will execute an action as indicated in the database record corresponding to a particular

4 menu. For example, the particular action may be to display image data, to present audio data, to

5 present media data, to activate a hyperlink, or to display a phone number (each of which is indicated

6 and described in conjunction with FIGURE 13). The term specific key is simply intended to convey

7 that a particular key is used to select a particular menu item (for example, a specific one of the keys

8 in a numeric keypad). Referring to the menu illustrated in FIGURE 19, one menu item

9 (corresponding to the key for #3 on a numeric keypad) is a fish. As described on page 33, lines 10-23

10 (which references FIGURE 17), selection of that key (i.e., selection of the key corresponding to #3 on

11 a numeric keypad) will result in a processor executing a plurality of different actions: a fishing video

12 will be shown to a user, a hyperlink to a web page is activated, a fact sheet is displayed to a user, a

13 phone number is dialed, and a new menu is displayed. As described in the specification, the

14 sequence of those actions is determined by a timing function. Clearly, the recitation identified by the

15 Examiner appears to be well supported by the specification as filed, and the rejection should be

16 withdrawn. If the Examiner is simply rejecting the use of the term "specific key" as opposed to the

17 use of the term "key", then applicant authorizes the Examiner to delete the term specific via an

18 Examiner's amendment.

19 The Examiner has rejected Claim 57 under 35 U.S.C. § 112, second first paragraph, as being

20 indefinite for failing to particularly point out and distinctly claim the subject matter which applicant

21 regards as the invention. In particular, the Examiner has objected to the term *sufficient*, which is a

22 relevant term that renders the claim indefinite. Applicant has substantially amended the language

23 used to articulate the relationship between the database record, the menu template, and the menu

24 template modifier, consistent with the specification as filed, and without the use of the term

25 sufficient. Accordingly, this rejection should be withdrawn.

26 Claims Rejected under 35 U.S.C. § 102

27 The Examiner has rejected Claims 40-47, 51, 52, 54, 57, and 58 under 35 U.S.C. § 102(e) as

28 being anticipated by U.S. Patent No. 6,384,850 (McNally). The Examiner asserts that McNally

29 teaches a menu template, a menu template modifier, and a menu database, where a menu is generated

30 by the modifier based upon the template and the data in the database. The Examiner further asserts

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1   that each element in Claims 40-47, 51, 52, 54, 57, and 58 is disclosed in McNally's patent. Applicant

2   respectfully disagrees for the following reasons.

3   As discussed in the course of the telephone interview identified above, the most significant

4   difference between the concepts disclosed by McNally and the concepts encompassed by applicant's

5   claims is that McNally uses a menu template, a menu template modifier, and database records to

6   initially generate a menu, which is then stored in a memory in its complete form (i.e., which is then

7   stored as a menu, such that the menu template is no longer required to display the menu to a user; the

8   menu template only being required to initially create the menu). As indicated in FIGURE 2B,

9   applicant uses an edit function and a menu template to generate a particular menu. Once the menu

10   has been generated, a database record corresponding to that menu is created. Significantly, the

11   database record is not equivalent to a completed menu saved in a memory, because additional

12   processing is required to use the information in the database record to re-create the menu from which

13   the database record has been generated. Significantly, to use the database record corresponding to a

14   particular menu to re-create that menu, *the menu template is required.* As described in applicant's

15   specification in detail, the purpose of storing database records corresponding to previously generated

16   menus, as opposed to simply storing the previously generated menu in a complete form, is to

17   conserve memory resources. Referring to page 6 of the specification as filed:

18
19   Yet another aspect of the present invention is directed to a method for reducing
     an amount of memory required to store a plurality of menus. This method
20   includes the steps of providing a database program, a menu template, a menu
     template modifier, and a database opened by the database program in which a
21   plurality of database records can be stored. A user is enabled to generate
     menus using the menu template and the menu template modifier. The menu
22   template modifier produces a database record for each menu that contains data
     specifying an appearance and other parameters of the menu, and an appearance
23   and other parameters of each item in the menu. The menu template modifier
     subsequently recreates a menu when required using the database record that
24   were created for the menu and its menu items, and the menu template, which is
25   used to define a format for the menus. Since the database need not store
     different format data for each of the plurality of menus, an amount of memory
26   required to store the plurality of menus is substantially reduced.
27
28
29   With respect to independent Claims 40, 52, 54, and 57, each claim has been amended to

30   emphasize the use of a menu template, a menu template modifier, and a database record specifically

corresponding to a previously developed menu to *re-create a previously developed menu*

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1 *corresponding to a selected database record.* This is distinctly different than the relationships
2 existing between the database records, menu template, and menu template modifiers disclosed by
3 McNally. According to McNally, the database records comprise individual menu items (such as New
4 York strip steak, tomato and lettuce) that can be combined to generate a specific menu. Significantly,
5 McNally does not teach or suggest that the database records correspond to a plurality of previously
6 generated menus, such that re-creation of the previously generated menu requires the database record
7 corresponding to that previously generated menu, the menu template, and the menu template
8 modifier.

9   Furthermore, it does not appear as if any of the other art cited by the Examiner provides any
10 motivation to modify McNally's database records, menu templates, and menu template modifiers to
11 achieve an equivalent invention. Because dependent claims are patentable for at least the same
12 reasons as the claims upon which they depend, Claims 40-47, 51, 52, 54, 57, and 58 are patentably
13 distinguishable over the cited art. Accordingly, the rejection of Claims 40-47, 51, 52, 54, 57, and 58
14 under as being anticipated by McNally should be withdrawn.

15   With respect to the language changes relating to the database record and events associated
16 with menu items selected by a user, FIGURES 13 and 17 are particularly exemplary of events defined
17 in the database record corresponding to a previously developed menu. The related text in the
18 specification as filed describes such concepts in detail.

19 Claims Rejected under 35 U.S.C. § 103

20   The Examiner has further rejected Claim 48 under 35 U.S.C. § 103(a) as being obvious over
21 McNally in view of U.S. Patent No. 6,549,890 (Mundell). The Examiner also rejects Claims 49, 50,
22 53, 55, and 56 under 35 U.S.C. § 103(a) as being obvious over McNally in view of Banerjee (U.S.
23 Patent No. 6,760,017). In these rejections, the Examiner has recognized that none of the references
24 alone teaches the elements recited in applicant's claims; however, the Examiner asserts that it would
25 have been obvious to one of ordinary skill in the art to combine elements disclosed by McNally, with
26 elements disclosed by Mundell and/or Banerjee, to achieve an equivalent to the recitation in
27 applicant's claims. Applicant respectfully disagrees for the following reasons.

28   As discussed above in detail, McNally does not teach or suggest an approach equivalent to
29 that recited in applicant's independent Claims 40, 52, and 54. None of the additional art cited by the
30 Examiner provides any motivation to one of ordinary skill in the art to modify McNally's disclosure

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to achieve an equivalent to that recited by applicant. Further, there isn't any evidence that such a modification would solve a problem recognized by those in the art. Still further, the combination of references indicated by the Examiner fails to achieve an equivalent to what applicant has claimed. Since dependent claims are patentable for at least the same reasons as the claims upon which they depend, Claims 48, 49, 50, 53, 55, and 56 are patentable for the same reasons discussed above with respect to the rejection over McNally alone. Accordingly, the rejection of Claims 48, 49, 50, 53, 55, and 56 as being obvious over the various combinations of references noted above should be withdrawn.

In view of the amendments and Remarks set forth above, it will be apparent that the claims in this application define a novel and non-obvious invention, and that the application is in condition for allowance and should be passed to issue without further delay. Should any further questions remain, the Examiner is invited to telephone applicant's attorney at the number listed below.
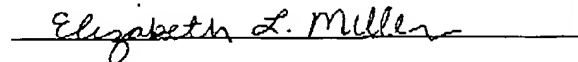
Respectfully submitted,

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FAX CERTIFICATE

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office at facsimile number 1-571-283-8300, on April 3, 2006.

Date: April 3, 2006   Elizabeth L. Miller

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